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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/925,193	08/09/2001	Alan A. Winder	41482/253466	4292

30559 7590 09/19/2007
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EXAMINER

JAWORSKI, FRANCIS J

ART UNIT	PAPER NUMBER
3768	

MAIL DATE	DELIVERY MODE
09/19/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.	Applicant(s)	
09/925,193	WINDER ET AL	
Examiner	Art Unit	
Jaworski Francis J.	3768	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 05 July 2007.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-45 and 47-71 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 1-43 and 56-69 is/are allowed.
- 6) Claim(s) 44, 45, 70 and 71 is/are rejected.
- 7) Claim(s) 47-55 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
- Certified copies of the priority documents have been received.
 - Certified copies of the priority documents have been received in Application No. _____.
 - Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) Notice of Informal Patent Application
- 6) Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 70 – 71 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, since claim 44 as amended pertains to 'organic tissue' and therefore differs in scope from the back reference 'the human tissue interface' that is found in these claims...

Claim Rejections - 35 USC § 102/103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 44 – 45 and 70 - 71 as amended are rejected under 35 U.S.C. 102(b, e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Greenwood (US6082181). Greenwood in each of Figs. 2 – 4 and 6 shows a mode conversion block having parallel top and bottom surfaces and a plurality of sides at critical angles, where the top and sides are capable of receiving first and second ultrasonic transducers.

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Since the operating frequencies of the transducers are not specified, nor is the nature of the interface and its location or relationship to the critical angles, nor is the location of the organic tissue to the above specified or the nature of this tissue (which may include plant material or organisms) nor is the therapeutic effect designated, it appears appropriate that in order to anticipate, the examiner is charged only with producing a mode converter with the claimed (inter alia trapezoidal cross-sectional) geometry and transducer mounting characteristic since the claim is yet broad enough to be generic with respect to any other inferred limitations. Alternatively it is argued that the relationship is capable of being met by selection of an appropriate interface to create the modal effect, i.e. a particular tissue site.

Claims 70 – 71 group here because confusion as to scope relegates them to the same argument that the generic nature of the base claim 44 format relaxes the specificity required to continue to reject.

Allowable Subject Matter

Claims 1 – 43 and 56 - 69 are allowed.

Claims 47 – 55 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Jaworski Francis J. at telephone number 571-272-4738.

FJJ:fjj

09-16-07


Francis J. Jaworski
Primary Examiner